IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4306 OF 2006

Rohit Anandsingh Kotwal .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.K.H.Holambe Patil for applicant
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 13th December 2006.

P.C.

. The applicant apprehends arrest in connection with C.R.No.3214 of 2006 registered with Yervada Police Station under section 65 and 66 of Information & Technology Act. According to applicant these are non bailable offences and the C.R. has been registered at the instance of A.C.P. Military Division, Pune. Grievance is raised by Mr.Holambe Patil to this effect that the application of the applicant for anticipatory

bail before the trial court has been disposed of merely because applicant was not present on several dates which were fixed for its hearing and disposal. Initially an application for ad-interim anticipatory bail was made which was rejected on 30th September 2006.

2. On 5th October 2006, matter was fixed. However, respondent preferred an application pointing out that the accused has not remained present. This application was made on 17th October 2006. Firstly, on this application an order was passed directing the applicant to remain present. That order is dated 17th October 2006. Thereafter, learned Additional Sessions Judge heard parties on the issue as to whether it is necessary and incumbent on the applicant to remain present and whether that disentitles him from interim anticipatory bail or anticipatory bail itself.

3. This matter was placed before me because of the apprehension of the applicant that his application for anticipatory bail was rejected without adjudicating into merits and only on account of his absence. Since, the applicant was not arrested despite this rejection, I had protected the applicant by order dated 5th December 2006.

4. The larger controversy need not be considered in the peculiar facts of this case. Since, the applicant has been protected, interest of justice would be sub-served if the order dated 29th November 2006 is set aside and the application for pre-arrest bail No.2276 of 2006 is restored to the file of Additional Sessions Judge, Pune for being heard afresh on merits and in accordance with law. Parties to appear before the Additional Sessions Judge, Pune on 21st December 2006 at 11.00 a.m. Learned Addl.Sessions Judge to endeavour and dispose of

this application within three weeks from the date of appearance of parties. Order dated 5th December 2006 protecting the applicant shall continue till hearing and final disposal of anticipatory bail application. However, this order is passed because Mr.Holambe Patil undertakes that the applicant would remain present before the trial court on 21st December 2006. Thereafter, the applicant would not leave India without prior permission of the trial court and would be available for interrogation and investigation as and when summoned. Learned Trial Judge to dispose of the application of applicant uninfluenced by any observations made in the order dated 29th November 2006 or this order. All concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)